

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUN 27 2012

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

IN RE KARL M.

) 2 CA-JV 2012-0053  
) DEPARTMENT B

) MEMORANDUM DECISION  
) Not for Publication  
) Rule 28, Rules of Civil  
) Appellate Procedure

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APPEAL FROM THE SUPERIOR COURT OF GREENLEE COUNTY

Cause No. JV201100005

Honorable Monica Stauffer, Judge

AFFIRMED

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Law Office of Josi Y. Lopez  
By Josi Y. Lopez

Safford  
Attorney for Appellant

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V Á S Q U E Z, Presiding Judge.

¶1 Sixteen-year-old Karl M. appeals from the juvenile court's April 2012 order extending his probation until March 30, 2013, and placing him at the Eastern Arizona Juvenile Detention Facility. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *In re Maricopa Cnty. Juv. Action No. JV-117258*, 163 Ariz. 484, 486-87, 788 P.2d 1235, 1237-38 (App. 1989), avowing she has searched

the record and found no ground for appeal. She asks this court to review the record for fundamental error.

¶2 Viewed in the light most favorable to upholding the juvenile court's orders, *see In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001), the evidence shows that in March 2011, Karl was adjudicated delinquent and placed on juvenile probation for one year after admitting charges of misdemeanor assault and disorderly conduct. Among other conditions of his probation, Karl was required to remain enrolled in school as a student in good standing, maintain passing grades, and abide by all school rules. On February 8, 2012, Karl's probation officer filed a petition to revoke probation, in which he alleged Karl had violated this condition, based on information that Karl was "currently failing his Math, English and History classes . . . and is frequently disruptive in the computer lab." After an evidentiary hearing, the court found these allegations had been proven by a preponderance of the evidence and extended Karl's probation as described above.

¶3 At the disposition hearing on April 10, 2012, the juvenile court stated it intended to extend Karl's probation until March 30, 2013, and order his placement in a detention facility until his eighteenth birthday or, alternatively, until it authorized his earlier release by a subsequent order. But Karl's eighteenth birthday is not until August 25, 2013, and such an extended placement is not an authorized disposition under A.R.S. § 8-341(A)(1). *See id.* (court "may award a delinquent juvenile: . . . (b) To a probation department, subject to any conditions the court may impose, including a period of incarceration in a juvenile detention center of not more than one year . . ."). Before

entering its signed minute entry disposition order, the court appears to have realized it had misspoken, and, in its written order, imposed a legally correct disposition of probation and placement in detention, both terminating on March 30, 2013. Although we recognize that this creates a discrepancy between the court's oral pronouncement of disposition and its disposition order, we conclude the court's intention as to Karl's disposition is accurately reflected in its signed minute entry order. *See State v. Lee*, 189 Ariz. 608, 616, 944 P.2d 1222, 1230 (1997) (judges presumed to know and apply the law); *cf. State v. Stevens*, 173 Ariz. 494, 496, 844 P.2d 661, 663 (App. 1992) (when discrepancy exists between oral pronouncement of criminal sentence and sentencing minute entry, "a reviewing court must try to ascertain the trial court's intent by reference to the record").<sup>1</sup>

¶4 Substantial evidence supported the juvenile court's finding that the state had proven the probation violation, and the court's disposition, as reflected in its signed minute entry order, is authorized by statute. *See* § 8-341(A)(1)(b). Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety. We have found no

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<sup>1</sup>We recognize that we have stated, in the context of a criminal sentence, that "[w]here there is a discrepancy between the oral sentence and the written judgment, the oral pronouncement of sentence controls." *State v. Hanson*, 138 Ariz. 296, 304-05, 674 P.2d 850, 858-59 (App. 1983). But in doing so, we have relied on Rule 26.16(a), Ariz. R. Crim. P., which provides, "The judgment of conviction and the sentence thereon are complete and valid as of the time of their oral pronouncement in open court." *See Hanson*, 138 Ariz. at 304, 674 P.2d at 858. In contrast, the rule governing a juvenile delinquency disposition does not contemplate an oral pronouncement having complete and valid effect upon the juvenile, but provides, "At the close of the disposition hearing, the court shall make findings in writing in the form of a minute entry or order. . . . set[ting] forth the conditions of probation." Ariz. R. P. Juv. Ct. 30(B)(3). Thus, in this context, we see no barrier to giving effect to the juvenile court's written disposition.

fundamental, prejudicial error requiring reversal and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, the court's probation violation disposition order is affirmed.

/s/ Garye L. Vásquez  
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Philip G. Espinosa  
PHILIP G. ESPINOSA, Judge

/s/ Virginia C. Kelly  
VIRGINIA C. KELLY, Judge